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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,627	10/30/2003	Andrew W. Marsden	20341-72631	7341
23643	7590	09/28/2005	EXAMINER	
BARNES & THORNBURG 11 SOUTH MERIDIAN INDIANAPOLIS, IN 46204			LIEU, JULIE BICHNGOC	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/697,627	MARSDEN ET AL.
	Examiner	Art Unit
	Julie Lieu	2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 October 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 23-32 is/are allowed.
- 6) Claim(s) 1,2,11-14,17 and 18 is/are rejected.
- 7) Claim(s) 3-10,15,16 and 19-22 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/25/03</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Drawings

1. The drawings are objected to because the photographs and drawings are not clear.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Knoedler et al. (US Patent No. 5,280,635).

Claim 1:

Knoedler et al. discloses a monitor for sensing and transmitting sounds in a baby's vicinity, comprising:

- a. a housing having a base 14 and two substantially spaced-apart legs 12 and 72, the housing enclosing acoustical means 34 and electrical means (transmitter) for, respectively, sensing and transmitting the sounds; and
- b. the monitor being mountable on a support by straddling the support with the spaced-apart legs.

Claim 11:

The acoustical means 34 includes a microphone to detect the sounds.

Claim 12:

The electrical means in the Knoedler device includes at least one device to convert and transmit the sounds to a remotely located receiver.

Claim 13:

The transmitter in Knoedler includes at least one battery 48 in the housing.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 2, 14, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knoedler et al. (US Patent No. 5,280,635).

Claim 2:

The housing of the monitor is U-shaped with the substantially spaced-apart legs 72 and 12 being essentially parallel to each other. Legs 12 and 72 are not essentially equal.

Nevertheless, it appears that legs 12 and 72 would function equally well together as if they were equal.

Claim 14:

It appears that the battery in Knoedler is not rechargeable. Nonetheless, the use of rechargeable battery is very old and conventional in the art. Thus, it would have been obvious to one skilled in the art to use rechargeable battery in the device of Knoedler because it would be economical to use rechargeable battery in the long run.

Claim 18:

Knoedler fails to disclose an indicator light showing the power status of the battery. Nonetheless, it would have been obvious to one skilled in the art to add a battery indicator light in the Knoedler device because it is very conventional to indicate the battery status to the user.

6. Claims 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knoedler et al. (US Patent No. 5,280,635) in view of Thompson (US Application 2005/0184877).

Claim 17:

Knoedler fails to disclose a switch and the ability to use the switch to allow for transmission frequency selection. However, Thompson teaches a baby-monitoring device that includes a switch 52 for selecting different frequencies of the transmitter. In light of this teaching, one skilled in the art would have readily recognized incorporating this feature in to the system of Knoedler because it is advantageous to allow user to select the transmission frequency.

Allowable Subject Matter

7. Claims 23-32 are allowed.
8. Claims 3-10, 15-16, and 19-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on MaxiFlex.
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julie Lieu
Primary Examiner
Art Unit 2636

Sept. 26, 05